THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.3765 of 2007

Between:

K.Bhagawanth Goud.

.. PETITIONER

and

The Prohibition and Excise Superintendent,
Mahaboobnagar, and another.

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RESPONDENTS

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ORDER:

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The petitioner was granted licence bearing No.13 on 18-04-2002 in

respect of counter No.1 of Mandal Kollapur Village and Mandal, Mahaboognagar District, which was valid from 18-04-2002 to 31-03-2007.

It is stated that the petitioner has been carrying on toddy business by tapping his own tress and selling the same in the said counter. While so, an inspection has been made in respect of the said counter on 03-10-2005 and took samples of toddy and tested the toddy on the spot and found adulterated with Chloral Hydrate. Therefore, the licence of the petitioner was suspended on 24-10-2005.

Further, one of the samples was sent to the Government Chemical Examiner for Prohibition and Excise, Regional Prohibition and Excise Laboratory, Hyderabad, for analysis and report. The Government Chemical Examiner for Prohibition and Excise, Regional Prohibition and Excise Laboratory, Hyderabad, through his report, dated 27-12-2005, opined that the sample is fermented toddy adulterated with Chloral Hydrate. After receiving the said report, a show-cause notice, dated 12-04-2006, has been issued to the petitioner calling upon him to explain as to why his licence should not be cancelled. However, no explanation has been submitted by the petitioner to the said show cause notice. Therefore, the licence of the petitioner has been cancelled by impugned order, dated 26-08-2006.

Aggrieved by the same, this writ petition has been filed alleging that he has not adulterated the toddy and a false case has been foisted against him and there are discrepancies with regard to quantity of toddy in the crime and occurrence report and in the show-cause notice. Therefore, the cancellation of the licence of the petitioner is illegal and in violation of Section 31(1)(c) of A.P.Excise Act, 1968.

Admittedly, an appeal lies against the said order under Section 63

of A.P.Prohibition Act, 1968, to the Deputy Commissioner of Prohibition and Excise.

As there is an effective alternative remedy, I am not inclined to express any opinion on the merits of the case.

Accordingly, the writ petition is dismissed with a liberty to file appeal before the Appellate Authority. However, if any appeal is filed within ten days from today, the Appellate Authority shall deal with all the contentions raised in the appeal and disposed of the same, after giving reasonable opportunity to all the concerned, as expeditiously as possible, within four weeks thereafter. There shall be no order as to costs.

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27-02-2007

Prv